

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, JANUARY 18, 2024

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PETITION OF

APPALACHIAN POWER COMPANY

CASE NO. PUR-2023-00212

For a prudency review, pursuant to §56-585.1:4 H
of the Code of Virginia, with respect to the purchase
of the energy, capacity, and environmental
attributes from solar facilities
through power purchase agreements

ORDER FOR NOTICE AND HEARING

On January 11, 2024, Appalachian Power Company ("APCo" or "Company"), pursuant to § 56-585.1:4 H of the Code of Virginia ("Code"), filed a petition ("Petition") with the State Corporation Commission ("Commission") for a prudency determination with respect to three power purchase agreements ("PPAs") that the Company seeks to add to its portfolio of renewable energy used to comply with the Renewable Portfolio Standards ("RPS") established by the Virginia Clean Economy Act. Pursuant to Code § 56-585.1:4 H, the Commission must issue a final order regarding the Petition within three months of the date of filing.

The Company states that the PPAs and the solar projects ("Projects") that are the subject of this Petition are:¹

- Elliot Solar, which is a 5 megawatt ("MW") solar facility located in Tazewell County, Virginia, with an expected commercial operations date in late 2025. APCo and the developer, Inovateus, entered into a 20-year PPA for the facility's output.
- County Line Solar, which is a 150 MW solar facility located in Charlotte County, Virginia, with an expected commercial operations date in late 2026. APCo and the developer, Competitive Power Ventures, entered into a 20-year PPA for the facility's output.

¹ Petition at 3.

- 7 Bridges Solar, which is an 80 MW solar facility located in Mecklenburg County, Virginia, with an expected commercial operations date in late 2026. APCo and the developer, Longroad, entered into a 30-year PPA for the facility's output.

The Company asks that the Commission determine that the execution of the PPAs is prudent and that the PPAs will be prudent additions to the Company's RPS compliance portfolio.² The Company asserts the PPAs were selected after a competitive and robust bidding process, due diligence and contract negotiations.³ According to the Petition, the PPAs will help the Company comply at a reasonable cost with the RPS requirements by producing approximately 1.0 million renewable energy certificates annually on a Virginia retail basis.⁴ The Company asserts that the PPAs will also allow APCo to reduce the amount of power purchased from the PJM energy markets.⁵ APCo further asserts that the PPAs will produce carbon-free energy thereby advancing the Commonwealth Clean Energy Policy.⁶

According to the Petition, as the Projects are not expected to go online until after the rate year in the Company's next RPS compliance filing, expected to be filed in April 2024, the Company will not seek cost recovery related to the PPAs from Virginia customers until 2025.⁷

The Company seeks a partial waiver of Rule 60 of the Rules Governing Utility Rate Application and Annual Informational Filings of Investor-owned Electric Utilities ("Rate Case

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 4.

⁶ *Id.*

⁷ *Id.*

Rules"),⁸ 20 VAC 5-204-60, which requires that applications requiring an overall cost of capital include Schedules 3, 4, 5, and 8. The Company asserts that it is not asking for a change in its overall cost of capital.⁹ The Company also seeks a limited waiver, pursuant to Rule 10 E of the Rate Case Rules, 20 VAC 5-204-10 E, of the requirements to file certain documents in hard copy. Specifically, the Company asks to be able to file an original and one copy of the public version of the Petition, supporting testimony, and Schedule 46; an original and one copy of the extraordinarily sensitive version of the Petition, supporting testimony, and Schedule 46; and three discs containing both the public and extraordinarily sensitive versions of the Petition and Schedule 46.¹⁰

Finally, in conjunction with the filing of its Petition on January 11, 2024, the Company filed a Motion for Protective Ruling and Additional Protective Treatment for Extraordinarily Sensitive Contract & Prices Information and RFP Results ("Motion for Protective Ruling") and a proposed protective ruling that establishes procedures governing the use of confidential and extraordinarily sensitive information in this proceeding.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; APCo should provide public notice of its Petition; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Petition; interested persons should have an opportunity to file comments on the Petition or to participate as respondents in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the Petition and file testimony and exhibits containing its findings and

⁸ 20 VAC 5-204-5 *et seq.*

⁹ Petition at 5.

¹⁰ *Id.* at 6.

recommendations thereon. We further grant the requested waivers for purposes of commencing this proceeding.

We also find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion for Protective Order and filing a final report containing the Hearing Examiner's findings and recommendations.

To promote administrative efficiency and timely service of filings upon participants, the Commission will, among other things, direct the electronic filing of testimony and pleadings unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2023-00212.

(2) All pleadings in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹¹ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, all parties

¹¹ 5 VAC 5-10-20 *et seq.*

and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

(4) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission, including ruling on the Company's Motion for Protective Order. A copy of each filing made with the Commission's Clerk's office in this matter shall also be sent electronically to the Office of the Hearing Examiners.¹²

(5) The Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Petition, as follows:

- (a) A hearing for the receipt of testimony from public witnesses on the Petition shall be convened telephonically at 10 a.m., on March 6, 2024.
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before February 26, 2024, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.
- (d) Beginning at 10 a.m., on March 6, 2024, the Hearing Examiner assigned to this matter will telephone sequentially each person who has signed up to testify as provided above. This hearing will not be convened, and the parties will be notified of such, if no person signs up to testify as a public witness.

¹² Such electronic copies shall be sent to: OHEParalegals@scc.virginia.gov.

(e) This public witness hearing will be webcast at:
scc.virginia.gov/pages/Webcasting.

(6) The evidentiary portion of the hearing on the Petition shall be convened at 10 a.m. on March 6, 2024, or at the conclusion of the public witness portion of the hearing, whichever is later, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive the testimony and evidence of the Company, any respondents, and the Staff.

(7) An electronic copy of the Company's Petition may be obtained by submitting a written request to counsel for the Company: Noelle J. Coates, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, njcoates@aep.com. Interested persons also may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(8) On or before February 5, 2024, the Company shall cause the following notice to be published as display advertising (not classified) on one (1) occasion in newspapers of general circulation throughout the Company's service territory within Virginia:

NOTICE TO THE PUBLIC OF A PETITION BY
 APPALACHIAN POWER COMPANY
 FOR A PRUDENCY REVIEW,
 PURSUANT TO § 56-585.1:4 H OF THE CODE OF VIRGINIA,
 WITH RESPECT TO THE PURCHASE OF ENERGY,
 CAPACITY, AND ENVIRONMENTAL ATTRIBUTES
 FROM SOLAR FACILITIES THROUGH
 POWER PURCHASE AGREEMENTS
CASE NO. PUR-2023-00212

On January 11, 2024, Appalachian Power Company ("APCo" or "Company"), pursuant to § 56-585.1:4 H of the Code of Virginia ("Code"), filed a petition ("Petition") with the State Corporation Commission ("Commission") for a prudency determination with respect to three power purchase agreements ("PPAs") that the Company seeks to add to its portfolio of renewable energy used to comply with the Renewable Portfolio Standards ("RPS") established by the Virginia Clean Economy

Act. Pursuant to Code § 56-585.1:4 H, the Commission must issue a final order regarding the Petition within three months of the date of filing.

The Company states that the PPAs and the solar projects ("Projects") that are the subject of this Petition are:

- Elliot Solar, which is a 5 megawatt ("MW") solar facility located in Tazewell County, Virginia, with an expected commercial operations date in late 2025. APCo and the developer, Inovateus, entered into a 20-year PPA for the facility's output.
- County Line Solar, which is a 150 MW solar facility located in Charlotte County, Virginia, with an expected commercial operations date in late 2026. APCo and the developer, Competitive Power Ventures, entered into a 20-year PPA for the facility's output.
- 7 Bridges Solar, which is an 80 MW solar facility located in Mecklenburg County, Virginia, with an expected commercial operations date in late 2026. APCo and the developer, Longroad, entered into a 30-year PPA for the facility's output.

The Company asks that the Commission determine that the execution of the PPAs will be prudent additions to the Company's RPS compliance portfolio. The Company asserts the PPAs were selected after a competitive and robust bidding process, due diligence and contract negotiations. According to the Petition, the Projects will help the Company comply at a reasonable cost with the RPS requirements (by producing approximately 1.0 million renewable energy certificates annually on a Virginia retail basis). The Company asserts that the PPAs will also allow APCo to reduce the amount of power purchased from the PJM energy markets. APCo further asserts that the PPAs will produce carbon-free energy thereby advancing the Commonwealth Clean Energy Policy.

According to the Petition, as the Projects are not expected to go online until after the rate year in the Company's next RPS compliance filing, expected to be filed in April 2024, the Company will not seek cost recovery related to the PPAs from Virginia customers until 2025.

The details of these and other proposals are set forth in the Company's Petition. Interested persons are encouraged to review the Company's Petition and supporting exhibits for the details of the proposals.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled public hearings on APCo's Petition. A hearing for the receipt of testimony from public witnesses on the Company's Petition shall be convened telephonically at 10 a.m. on March 6, 2024. On or before February 26, 2024, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141. This public witness hearing will be webcast at: scc.virginia.gov/pages/Webcasting.

Beginning at 10 a.m. on March 6, 2024, the Hearing Examiner will telephone sequentially each person who has signed up to testify as provided above.

On March 6, 2024, at 10 a.m., or at the conclusion of the public witness portion of the hearing, whichever is later, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, the Hearing Examiner will convene a hearing to receive testimony and evidence related to the Petition from the Company, any respondents, and the Commission Staff.

To promote administrative efficiency and timely service of filings upon participants, the Commission has directed the electronic filing of testimony and pleadings, unless they contain confidential information, and required electronic service on parties to this proceeding.

Electronic copies of the public version of the Petition may be obtained by submitting a written request to counsel for the Company, Noelle J. Coates, 1051 East Cary Street, Suite 1100, Richmond, Virginia 23219, njcoates@aep.com.

On or before February 26, 2024, any interested person may submit written comments on the Petition by following the instructions found on the Commission's website:

scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2023-00212.

On or before February 16, 2024, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by Rule 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2023-00212.

On or before February 16, 2024, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2023-00212.

All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The Commission's Rules of Practice, the Commission's Order for Notice and Hearing, and other documents filed in the case may be viewed at: scc.virginia.gov/pages/Case-Information.

APPALACHIAN POWER COMPANY

(9) The Company shall serve each official listed in 20 VAC 5-204-10 J 1 as provided by 20 VAC 5-204-10 J 2.

(10) On or before February 16, 2024, the Company shall file proof of the notice and service required by Ordering Paragraphs (8) and (9), including the name, title, address and electronic mail address (if applicable) of each official served, with the Clerk of the State Corporation Commission by filing electronically at scc.virginia.gov/clk/efiling.

(11) On or before February 26, 2024, any interested person may submit written comments on the Petition by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2023-00212.

(12) On or before February 16, 2024, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (11). Such notice of participation shall include the email addresses

of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2023-00212.

(13) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve on the respondent a copy of the public version of its Petition and supporting materials, unless these materials already have been provided to the respondent.

(14) On or before February 16, 2024, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (11). Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Staff, the Company, and all other respondents simultaneous with its filing. In all filings, the respondent shall comply with the Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2023-00212.

(15) On or before February 16, 2024, Staff shall investigate the Petition and file with the Clerk of the Commission its testimony and exhibits concerning the Petition, and each Staff

witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(16) On or before February 23, 2024, APCo shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(17) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(18) Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.¹³ Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

¹³ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2023-00212, in the appropriate box.

(19) The Company's requests for limited and partial waiver of Rules 10 E and 60 of the Rate Case Rules are granted.

(20) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.